

REMARKS

Reconsideration of the above-identified application is respectfully requested in view of the previous amendment and the following remarks. Claim 1 has been amended. Claims 10-12 have been canceled, without prejudice. Claims 1-9 and 13-21 are now in this case.

Rejection of Claims 1-13 pursuant to 35 U.S.C. § 101

Claims 1-13 were rejected under 35 U.S.C. § 101. Claim 1 was amended to recite the usage of a reservation system to receive a first request for a first reservation on a first aircraft flight and to receive a second request for a second reservation on the first aircraft flight. Claim 1 was further amended to recite the usage of a processor to deduct a first value from a first use allocation stored in a memory and to deduct a second value from a second use allocation stored in the memory. Thus, claim 1 now requires the use of technological arts and can no longer be accomplished verbally by a receptionist specialist. Claims 2-9 and 13 depend from claim 1, either directly or indirectly, and therefore also require the usage of the reservation system, the processor and a memory. Accordingly, claims 2-9 and 13 also now require the use of technological arts.

For at least the reasons previously stated, withdrawal of the rejection of claims 1-9 and 13 pursuant to 35 U.S.C. § 101 is respectfully requested.

Claims 10-12 have been canceled without prejudice. Accordingly, the rejection of claims 10-12 pursuant to 35 U.S.C. § 101 is moot.

Rejection of Claims 10 and 12 pursuant to 35 U.S.C. § 101, second paragraph

Claims 10 and 12 were rejected pursuant to 35 U.S.C. § 101, second paragraph. Claims 10 and 12 have been canceled, without prejudice. Accordingly, this rejection is moot.

Rejection of Claims 11 and 12 pursuant to 35 U.S.C. § 102(e)

Claims 11 and 12 were rejected pursuant to 35 U.S.C. § 102(e) in view of Pugliese. Claims 11 and 12 have been canceled, without prejudice. Accordingly, this rejection is moot.

Rejection of Claims 14-21 pursuant to 35 U.S.C. § 102(b)

Claims 14-21 were rejected pursuant to 35 U.S.C. § 102(b) in view of a personal computer. The Examiner asserts that the claim language defining the fact that the memory is storing the use allocation for a fractional owner is “non-functional descriptive material that does not serve as a limitation,” relying on *In re Gulack*, 217 U.S.P.Q. 401 (Fed. Cir. 1983).

In the *Gulack* case, the Federal Circuit overturned a decision by the Board of Appeals and Interferences that rejected claims under 35 U.S.C. § 103 on the basis that claim language was given no patentable weight because there was no functional relationship between printed matter and a band. In overturning the Board's position, the Federal Circuit held that:

Differences between an invention and the prior art cited against it cannot be ignored merely because those differences reside in the context of the printed matter. Under section 103, the board cannot dissect a claim, excise the printed matter from it, and declare the remaining portion of the mutilated claim to be unpatentable. The claim must be read as a whole. If the board meant to disregard that basic principle of claim interpretations, we must reverse the rejection as a matter of law.

In re Gulack, 217 C.A.F.C. 401, 703 F.2d 1381, 1385 (Fed. Cir. 1983) (footnotes omitted).

The reliance on the *Gulack* case is not appropriate. First, *Gulack* applies to printed matter, not to the contents of memory. The Examiner has cited no authority for extending the principles of *Gulack* as they related to printed matter to the contents of memory in a computer processing system. Second, reading claim 14 as a whole, it is clear that the contents of the memory – use allocations – are clearly related to the functioning of the entire system, including the recited processing circuit. For example, according to claim 14, the processing system interfaces with the memory to store the use allocations and to deduct values from the use allocations based on participation in aircraft flights. Thus, there is a clear functional relationship between the processing circuit and the memory contents.

Accordingly, it is respectfully submitted that *In re Gulack* is not applicable to claim 14, and that the alleged non-functional descriptive claim language in claim 14 is limiting. The system of claim 14 specifies a memory and a processing circuit that store and act on a first use allocation and a second use allocation which is not taught or suggested by a personal computer. Thus, allowance of claim 14 is therefore respectfully requested.

Claims 15-21 depend either directly or indirectly from claim 14, thereby incorporating each limitation of claim 14. Accordingly, allowance of claims 15-21 is respectfully requested.

Rejection of Claims 1-10 and 13 pursuant to 35 U.S.C. § 103(a)

Claims 1-10 and 13 were rejected pursuant to 35 U.S.C. § 103(a) in view of the fractional jet set article. Claim 1 specifies the steps of receiving a first request and a second request from

first and second fractional owners, respectively, for a first aircraft flight, then deducting a first value from a first use allocation stored in a memory associated with the first fractional owner, and then deducting a second value from a second use allocation stored in the memory associated with the second fractional owner.

The fractional jet set article does not teach or suggest these steps. For example, the fractional jet set article does not teach or suggest receiving requests from two different fractional owners for the same flight. The Examiner alleges that the article teaches that “Two owners can make a request to fly to the same destination on the same day” without any reference to the article. Further, even if the article does teach or suggest this concept, it does not teach or suggest that two owners can make a request to fly to the same destination on the same day on the same flight, as required by claim 1. Additionally, the article fails to teach or suggest deducting values from use allocation associated with two different owners when they fly on the same aircraft. For at least these reasons, the fractional jet set fails to teach or suggest claim 1.

Accordingly, allowance of claim 1 is respectfully requested.

Claims 2-9 and 13 all depend either directly or indirectly from claim 1, incorporating all of the limitations of claim 1. For at least the reasons stated above, the fractional jet set article fails to teach or suggest claims 2-9 and 13. Accordingly, allowance of claims 2-9 and 13 is respectfully requested.

Claim 10 has been canceled without prejudice. Accordingly, the rejection of claim 10 is moot.

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It is believed that all objections set forth in the Office Action dated February 3, 2005 have been fully met, and favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (732-815-0404) to discuss any additional objections.

Dated: May 12, 2005

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Glen M. Diehl".

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